

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18538
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On November 5, 2004, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) for the years 1999, 2000, 2001, and 2002 proposing Idaho income tax, penalty, and interest in the total amount of \$8,038.

A timely protest and petition for redetermination was filed by the petitioner on January 7, 2005. The Tax Commission, having reviewed the entire file, hereby issues its decision modifying the NOD.

The petitioner and her husband, [Redacted], have now provided the Commission with their Idaho and U.S. individual income tax returns for the years 1999, 2000, 2001, and 2002 using a filing status of married filing joint. The Commission will modify the NOD to recognize the filing status of married filing joint. The petitioner and her husband will be referred to as the petitioners from this point forward in this decision.

The returns the petitioners filed appear to be more accurate than the provisional returns prepared by the Tax Enforcement Specialist. These returns will be subject to the normal review process and the three-year statute of limitations, beginning the date the returns were submitted.

The petitioners' returns for 1999, 2000, 2001, and 2002 resulted in refunds. However, Idaho Code section 63-3072(c) states that a claim for refund or credit of the overpayment of Idaho income taxes withheld shall be made within three years from the due date of the return. Idaho Code section

63-3024A(g) states that a refund claim must be filed within three years of the due date of the return. The petitioners' 1999, 2000, 2001, and 2002 returns had due dates of April 15, 2000; April 15, 2001; April 15, 2002; and April 15, 2003; respectively. Since the petitioners' 1999, 2000, and 2001 returns were received October 31, 2005, well outside the three-year statute of limitations, the Commission would normally deny all of these refunds. However, since the NOD in this case was issued prior to the expiration of the three year statute of limitations for tax year 2001, the period of limitations is suspended. Idaho Code section 63-3072(i) states:

The expiration of the period of limitations as provided in this section shall be suspended for the time period between the issuance by the state tax commission of a notice under either section 63-3045 or 63-3065, Idaho Code, and the final resolution of any proceeding resulting from the notice.

Therefore, the petitioners' refund for tax year 2001 will be refunded.

The petitioners have provided the Commission with their actual Idaho income tax returns for all years in question. Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated November 5, 2004, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$0	\$0	\$0	\$0
2000	\$0	\$0	\$0	\$0
2001	(\$1,007)	\$0	\$0	(\$1,007)
2002	(965)	\$0	\$0	<u>(965)</u>
SUBTOTAL REFUND				<u>(\$1,972)</u>
LESS: REFUND ISSUED				965
TOTAL REFUND				<u>(\$1,007)</u>

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

---

COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.